ORDINANCE NO. _____

AN ORDINANCE OF THE TOWNSHIP OF MAIDENCREEK, BERKS COUNTY, PENNSYLVANIA, GOVERNING MUNICIPAL MANAGEMENT OF ONLOT SUBSURFACE SEWAGE DISPOSAL FACILITIES WITHIN THE TOWNSHIP; ESTABLISHING PERMIT REQUIREMENTS AND REGULATIONS FOR THE INSPECTION, OPERATION, AND REHABILITATION OF ONLOT SEWAGE SYSTEMS, AND FURTHER DESIGNATING ENFORCEMENT PROCEDURES AND PRESCRIBING PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Maidencreek, Berks County, Pennsylvania and it is hereby enacted and ordained by the authority of the same as follows:

Section I, Short title: Introduction, Purpose

A. This ordinance shall be known and may be cited as "Maidencreek Township Sewage Management Program Ordinance.

B. In accordance with Municipal Codes, the Clean Streams Law (Act of June 27, 1937, P.L. 1987, No. 394 as amended , 35 P.S. §§691.1 to 691.1001), and the Pennsylvania Sewage Facilities Act (Act of January 24, 1966, P.L. 1535 as amended, 35 P.S. §750.1 et seq. known as Act 537), it is the power and the duty of the Maidencreek Township Board of Supervisors to provide for adequate sewage treatment facilities and for the protection of the public health by preventing the discharge of untreated or inadequately treated sewage. The Official Sewage Facilities Plan for Maidencreek Township indicates that it is necessary to formulate and implement a sewage management program to effectively prevent and abate water pollution and hazards to the public health caused by improper treatment and disposal of sewage.

C. The purpose of this ordinance is to provide for the regulation, inspection, *maintenance* and rehabilitation of onlot sewage disposal systems; to further permit intervention in situations which may constitute a public nuisance or hazard to the public health; and to establish penalties and appeal procedures necessary for the proper administration of a sewage management program.

Section II. Definitions

A. "Authorized Agent" shall mean a sewage enforcement officer, employee of the Maidencreek Township, professional engineer, plumbing inspector, or any other qualified or licensed person who is authorized to function within specified limits as an agent of Maidencreek Township to administer or enforce the provisions of this ordinance.

B. "Board" shall mean the Board of Supervisors of Maidencreek Township, Berks County, Pennsylvania.

C. "Community Sewage System" shall mean any system, whether publicly or privately owned, for the collection of sewage from two or more lots, and the treatment and/or disposal of the sewage on one or more lots or at any other site.

D. "Department" shall mean the Department of Environmental Protection of the Commonwealth of Pennsylvania (DEP).

E. "Individual Sewage System" shall mean a system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into any waters of this Commonwealth.

F. "Malfunction" shall mean a condition which occurs when an onlot sewage disposal system discharges sewage onto the surface of the ground, into ground waters of this Commonwealth, into surface waters of this Commonwealth, backs up into a building connected to the system or in any manner causes a nuisance or hazard to the public health or pollution of ground or surface water or contamination of public or private drinking water wells. Systems shall be considered to be malfunctioning if any condition noted above occurs for any length of time during any period of the year.

G. "Official Sewage Facilities Plan" shall mean a comprehensive plan for the provision of adequate sewage disposal systems, adopted by the Board and approved by the Pennsylvania Department of Environmental Protection pursuant to the Pennsylvania Sewage Facilities Act.

H. "Onlot Sewage Disposal System" shall mean any system for disposal of domestic sewage involving pretreatment and subsequent disposal of the clarified sewage into a subsurface soil absorption area or retaining tank, this term includes both individual sewage systems and community sewage systems.

I. "Person" shall mean any individual, association, public or private corporation for profit or not for profit, partnership, firm, trust, estate, department, board, bureau of agency of the Commonwealth, political subdivision, municipality, district, authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. Whatever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, the term person shall include the members of an association, partnership or firm and the officers of any local agency or municipal, public or private corporation for profit or not for profit.

J. "Rehabilitation" shall mean work done to modify, alter, repair, enlarge or replace an existing onlot sewage disposal system.

K. "Sewage" shall mean any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation or which constitutes pollution under the Act of June 23, 1937 (P.L. 1987, No. 394), known as "The Clean Streams Law", as amended.

L. "Sewage Enforcement Officer (SEO)" shall mean a person certified by DEP who is employed by Maidencreek Township. Such person is authorized to conduct

investigations and inspections, review permit applications, issue or deny permits and do all other activities as may be provided for such person in the Sewage Facilities Act, the rules and regulations promulgated thereunder and this or any other ordinance adopted by the Maidencreek Township.

M. "Sewage Management District" shall mean any area of the Maidencreek Township designated in the Official Sewage Facilities Plan adopted by the Board of Supervisors of Maidencreek Township as an area for which a Sewage Management program is to be implemented.

N. "Sewage Management Program" shall mean a comprehensive set of legal and administrative requirements encompassing the requirements of this ordinance, the Sewage Facilities Act, the Clean Streams Law, the regulations promulgated thereunder and such other requirements adopted by the Maidencreek Township Board of Supervisors to effectively enforce and administer this ordinance.

O. "Subdivision" shall mean the division or redivision of a lot, tract or other parcel of land into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines. The enumerating of lots shall include as a lot that portion of the original tract or tracts remaining after other lots have been subdivided therefrom.

P. "Township" shall mean the Township of Maidencreek, Berks County, Pennsylvania.

Q. For the purpose of this ordinance, any term which is not defined herein shall have that meaning attributed to it under the Sewage Facilities Act and Regulations promulgated thereto.

Section III. Applicability

A. From the effective date of this ordinance, its provisions shall apply in any portion of Maidencreek Township identified in the Official Sewage Facilities Plan as a sewage management district. Within such area or areas, the provisions of this ordinance shall apply to all persons, owning any property serviced by an onlot sewage disposal system and to all persons installing or rehabilitating onlot sewage disposal systems.

Section IV. Permit Requirements

A. No person shall install, construct or request bid proposals for construction, or alter an individual sewage system or construct or request bid proposals for construction or install or occupy buildings or structure for which an individual sewage system or community sewage system is to be installed without first obtaining a permit from the sewage enforcement officer which permit shall indicate that the site and the plans and specifications of such system are in compliance with the provisions of the Clean Streams Law (35 P.S. §§691.1-671.1001) and the Pennsylvania Sewage Facilities Act (35 P.S. 750.1 et seq.) and the regulations adopted pursuant to those Acts.

B. No system or structure designed to provide individual or community sewage disposal shall be covered from view until approval to cover the same has been given by a sewage enforcement officer. If 72 hours have elapsed, excepting Sundays and Holidays, since the sewage enforcement office issuing the permit received notification of completion of construction, the applicant may cover said system or structure unless permission has been specifically refused by the sewage enforcement officer.

C. Applicants for sewage permits may be required to notify the sewage enforcement officer of the schedule for construction of the permitted onlot sewage disposal system so that inspection(s) in addition to the final inspection required by the Sewage Facilities Act may be scheduled and performed by a sewage enforcement officer.

D. No building or occupancy permit shall be issued for a new building which will contain sewage generating facilities until a valid sewage permit has been obtained from a sewage enforcement officer.

E. No building or occupancy permit shall be issued and no work shall begin on any alteration or conversion of any existing structure, if said alteration or conversion will result in the increase or potential increase in sewage flows from the structure, until either the structure's owner receives a permit for alterations or replacement of the existing sewage disposal system or until the structure's owner and the appropriate officials of Maidencreek Township receive written notification from a sewage enforcement officer that such a permit will not be required. The sewage enforcement officer shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows.

F. Sewage permits may be issued only by a sewage enforcement officer employed by Maidencreek Township. DEP shall be notified as to the identity of each sewage enforcement officer employed by Maidencreek Township.

Section V. Inspection

A. Any onlot sewage disposal system may be inspected by an authorized agent at any reasonable time as of the effective date of this ordinance.

B. Such inspection may include a physical tour of the property, the taking of samples from surface water, wells, other groundwater sources, the sampling of the contents of the sewage disposal system itself and/or the introduction of a traceable substance into the interior plumbing of the structure served to ascertain the path and ultimate destination of wastewater generated in the structure.

C. An authorized agent shall have the right to enter upon land for the purposes of inspections described in this section, after a reasonable attempt has been made to notify the landowner.

D. An initial inspection may be conducted by an authorized agent within one year of the effective date of this ordinance for the purpose of determining the type and functional status of each sewage disposal system in the sewage management district. A written

report shall be furnished to the owner of each property inspected and a copy of said report shall be maintained in the [Borough or Township] records.

E. A schedule of routine inspections may be established to assure the proper functioning of the sewage systems in the sewage management district.

F. An authorized agent shall inspect systems known to be, or alleged to be, malfunctioning. Should said inspection reveal that the system is indeed malfunctioning, the authorized agent shall order action to be taken to correct the malfunction. If total correction cannot be done in accordance with the regulations of DEP including, but not limited to those outlined in Chatter 73 of Title 25 of Pennsylvania Code; or, is not technically or financially feasible in the opinion of the authorized agent and a representative of DEP; then action by the property owner to mitigate the malfunction shall be required.

G. If there arises a geographic area where numerous onlot sewage disposal systems are malfunctioning, a resolution of these area wide problems may necessitate detailed planning and a revision to the portion of the Sewage Facilities Plan pertaining to areas affected by such malfunctions. If a DEP authorized Official Sewage Facilities Plan Revision has been undertaken, repair or replacement of individual malfunctioning sewage disposal systems within the area affected by the revision may be delayed, pending the outcome of the plan revision process. However, immediate corrective action will be compelled whenever a malfunction, as determined by Maidencreek Township officials and/or the Department, represents a serious public health or environmental threat.

Section VI. Operations

A. Only normal domestic wastes shall be discharged into any onlot sewage disposal system. The following shall not be discharged in to the system.

1. Industrial waste;

2. Automobile oil and other non-domestic oil;

3. Toxic or hazardous substances or chemicals, including but not limited to, pesticides, disinfectants (excluding household cleaners), acids, paints, paint thinners, herbicides, gasoline and other solvents;

4. Clean surface or groundwater, including water from roof or cellar drains, springs, basement sump pumps and French drains;

Section VII. Maintenance

A. Each person owning a building served by an onlot sewage disposal system which contains a septic tank shall have the septic tank pumped by a qualified pumper/hauler within six months of receiving notification from Maidencreek Township. Thereafter that person shall have the tank pumped at least once every four years unless a greater time period is granted by the Township based on usage or whenever an inspection reveals that

the septic tank is filled with solids or with scum in excess of 1/3 of the liquid depth of the tank. Receipts from the pumper/hauler shall be submitted to the Maidencreek Township within the prescribed six month and four year pumping periods.

B. The required pumping frequency may be increased at the discretion of an authorized agent if the septic tank is undersized, if solids buildup in the tank is above average, if the hydraulic load on the system increases significantly above average, if a garbage grinder is used in the building, if the system malfunctions or for other good cause shown. If any person can prove that such person's septic tank had been pumped within four years of the six-month anniversary of the effective date of this ordinance, then that person's initial required pumping may be delayed to conform to the general four year frequency requirement except where an inspection reveals a need for more frequent pumping frequencies.

C. Any person owning a property served by a septic tank shall submit, with each required pumping receipt, a written statement from the pumper/hauler or from any other qualified individual acceptable to the Maidencreek Township, that the baffles in the septic tank have been inspected and found to be in good working order. Any person whose septic tank baffles are determined to require repair or replacement shall first contact a sewage enforcement officer for approval of the necessary repair.

D. Any person owning a building served by an onlot sewage disposal system which contains an aerobic treatment tank shall follow the operation and maintenance recommendations of the equipment manufacturer. A copy of the manufacturer's recommendations and a copy of the service agreement shall be submitted to the Maidencreek Township within six months of the effective date of this ordinance. Thereafter, service receipts shall be submitted to the Maidencreek Township at the intervals specified by the manufacturer's recommendations. In no case may the service or pumping intervals for aerobic treatment tanks exceed those required for septic tanks.

E. Additional maintenance activity may be required as needed including, but not necessarily limited to, cleaning and unclogging of piping, servicing and the repair of mechanical equipment, leveling of distribution boxes, tanks and lines, removal of obstruction roots or trees, the diversion of surface water away from the disposal area, etc.

Section VIII. System Rehabilitation

A. No person shall operate or maintain an onlot sewage disposal system in such a manner that it malfunctions. All liquid wastes, including kitchen and laundry wastes and water softener backwash, shall be discharged to a treatment tank. No sewage system shall discharge untreated or partially treated sewage to the surface of the ground or into the waters of the Commonwealth unless a permit of such discharge has been obtained from DEP.

B A written notice of violation shall be issued to any person who is the owner of any property which is found to be served by a malfunctioning onlot sewage disposal system or which is discharging sewage without a permit.

C. Within seven (7) days of notification by Maidencreek Township that a malfunction has been identified, the property owner shall make application to the sewage enforcement officer for a permit to repair or replace the malfunctioning system. Within thirty (30) days of initial notification by Maidencreek Township, construction of the permitted repair or replacement shall commence. Within sixty (60) days of the original notification by Maidencreek Township, the construction shall be completed unless seasonal or unique conditions mandate a longer period, in which case Maidencreek Township shall set an extended completion date.

D. A sewage enforcement officer shall have the authority to require the repair of any malfunction by the following methods: cleaning, repair or replacement of components of the existing system adding capacity or otherwise altering or replacing the system's treatment tank, expanding the existing disposal areas, replacing the existing disposal area, replacing a gravity distribution system with a pressurized system, replacing the system with a holding tank or any other alternative appropriate for the specific site.

E. In lieu of, or in combination with the remedies described in Subsection D above a sewage enforcement officer may require the installation of water conservation equipment and the institution of water conservation practices in structures served. Water using devices and appliances in the structure may be required to be retroffied with water saving appurtenances or they may be required to be replaced by water conserving devices.

F. In the event that the rehabilitation measures in Subsections A through E are not feasible or effective, the owner may be required to apply for a permit to install an individual spray irrigation treatment system or to DEP for a single residence treatment and discharge system. Upon receipt of said permit the owner shall complete construction of the system within thirty (30) days.

G. Should none of the remedies described in this Section be totally effective in eliminating the malfunction of an existing onlot sewage disposal system, the property owner is not absolved of responsibility for that malfunction. Maidencreek Township may require whatever action is necessary to lessen or mitigate the malfunction to the extent necessary.

Section IX. Municipal Intervention and Liens

A. Maidencreek Township, upon written notice from a sewage enforcement officer that an imminent health hazard exists due to failure of property owner to maintain, repair or replace an onlot sewage disposal system as provided under the terms of this ordinance, shall have the authority to perform or contract to have performed work required by the sewage enforcement officer. The owner shall be charged for the work performed and, if necessary, a lien shall be entered therefor upon the subject property in accordance with law.

Section X. Disposal of Septage

A. All septage originating within the sewage management district shall be disposed of in accordance with the requirements of the Solid Waste Management Act (Act 97 of 1980,

35 P.S. §§6018.101 et seq.) and all other applicable laws and at sites or facilities approved by DEP.

B. Pumper/haulers of septage operating within the sewage management district shall operate in a manner consistent with the provisions of the Pennsylvania Solid Waste Management Act (Act 97 of 1980, 35 P.S. §§6018.1003) and all other applicable laws.

Section XI. Administration

A. Maidencreek Township shall fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of this ordinance.

B. Maidencreek Township shall employ qualified individuals to carry out the provisions of this ordinance. Those employees shall include a sewage enforcement officer and may include an administrator and such other persons as may be necessary. Maidencreek Township may also contact with private qualified persons or firms as necessary to carry out the provisions of this ordinance.

C. All permits, records, reports, files and other written materials relating to the installation, operation and maintenance and malfunction of onlot sewage disposal systems in the sewage management district shall become the property of, and be maintained by, Maidencreek Township. Existing and future records shall be available for public inspection during regular business hours at the official office of Maidencreek Township. All records pertaining to sewage permits, building permits, occupancy permits and all other aspects of the sewage management program shall be made available upon request for inspection by representatives of the Pennsylvania Department of Environmental Protection.

D. Maidencreek Township Board of Supervisors shall establish all administrative procedures necessary to properly carry out the provisions of this ordinance.

E. The Maidencreek Township Board of Supervisors may establish a fee schedule, and authorize the collection of fees, to cover the cost to Maidencreek Township of administering this program.

Section XII. Appeals

A. Appeals from final decisions of Maidencreek Township of any of its authorized agents under this ordinance shall be made to Maidencreek Township Board of Supervisors in writing within thirty (30) days form the date of written notification of the decision in question.

B. The appellant shall be entitled to a hearing before the Maidencreek Township Board of Supervisors at their next regularly scheduled meeting, if a written approval is received at least fourteen (14) days prior to that meeting. If the appeal is received within fourteen (14) days or the next regularly scheduled meeting the appeal shall be heard at the next regularly scheduled meeting. The municipality shall thereafter affirm, modify, or reverse

the aforesaid decision. The hearing may be postponed for a good cause shown by the appellant or the Board of Supervisors of Maidencreek Township. Additional evidence may be introduced at the hearing provided that it is submitted with the written notice of appeal.

C. A decision shall be rendered in writing within thirty (30) days of the date of the hearing.

Section XIII. Penalties

A. Any person or entity who fails to comply with any or all of the requirements or provisions of the Ordinance or who fails or refuses to comply with any notice, order or direction of the sewage enforcement officer or any other authorized agent of the municipality shall be subject to the criminal enforcement procedures, fines and schedule of fines as set forth in Ordinance No. 153, the "Civil/Criminal Enforcement Procedure Ordinance of Maidencreek Township". Each day of noncompliance shall constitute a separate offense.

B. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or non-compliance with, this Ordinance shall not excuse the violation or non-compliance or permit it to continue and all such persons shall be required to correct or remedy such violations and non-compliance within a reasonable time.

Article XIV. Severance Clause

In the event that any provisions, section, sentence, clause or portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any of the remaining ordinance. It is hereby declared to be the intent of the Board of Supervisors of the Township of Maidencreek that the remainder of this Ordinance shall be and remain in full force and effect notwithstanding the fact that such portion thereof shall be invalid or unconstitutional.

Article XV. Repealer Clause

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance, are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

Article XVI. Effective Date

This Ordinance shall take effect five (5) days subsequent to it passage.

ORDAINED and ENACTED as an Ordinance by the Board of Supervisors of the Township of Maidencreek, Berks County, Pennsylvania in lawful session duly assembled this ___ day of _____, 2009.

BOARD OF SUPERVISORS OF
MAIDENCREEK TOWNSHIP

_____
Claude Beaver

_____
Roy Timpe

Attest:

_____
Diane Hollenbach, Township Manager

_____
Joseph E. Rudderow, III